

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE EASTERN DISTRICT OF VIRGINIA

3 Alexandria Division

4 - - - - - x

5 TIARRA FAIN, :
6 Plaintiff, :
7 vs. : CASE NO. 3:12-CV-293
8 RAPPAHANNOCK REGIONAL JAIL, :
9 et al., :
10 Defendants. :
11 - - - - - x

12
13 Deposition of SUPERINTENDANT JOSEPH HIGGS, JR.

14 Stafford, Virginia

15 Tuesday, February 12, 2013

16 2:27 p.m.

17

18

19

20 Job No.: 32439

21 Pages: 1 - 53

22 Reported by: Sarah M. Bickel, RPR

PLAINTIFF'S
EXHIBIT
A

DEPOSITION OF SUPERINTENDANT JOSEPH HIGGS, JR.
CONDUCTED ON TUESDAY, FEBRUARY 12, 2013

5

1 PROCEEDINGS

2 JOSEPH HIGGS, JR.

3 having been first duly sworn, testified as follows:

4 EXAMINATION BY COUNSEL FOR THE PLAINTIFF

5 BY MR. SHIELDS:

6 Q Would you state your name, please, for the
7 record.

8 A Joseph Higgs, Jr.

9 Q And you are the superintendent of the
10 Rappahannock Regional Jail; is that correct?

11 A Yes.

12 Q And you were in April of 2010?

13 A Yes.

14 Q Any changes in your position from then to
15 now?

16 A No.

17 Q As superintendent, can you tell me what
18 your responsibilities are?

19 A I oversee the full operation of the
20 regional jail here. I have command staff that -- I
21 break it down, I delegate some of that responsibility
22 to them and they report back to me, and I monitor

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1 A Yes.

2 Q And what standards are those, if you can
3 think of them offhand?

4 A They're the most recent standards that
5 were set forth this past year in Richmond. That's
6 what our policies comply to.

7 Q Going back to April of 2010, can you tell
8 me what policies were in place then?

9 A They were not as restrictive as the
10 current policies are.

11 In relationship to pregnant females, is
12 that what you want?

13 Q That's right. Yes.

14 A In what relation? Transport? Housing?

15 Q I'm thinking about transport and what
16 occurs while they're in the hospital or whatever
17 location they're delivering.

18 A And that's from April '10?

19 Q In April of 2010.

20 A In April of 2010, the policy and
21 procedures, there was no, at that time, separate
22 policy pertaining to pregnant females other than --

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1 different than that of regular inmates. Pregnant
2 females were transported. They were restrained
3 generally in the front. They were -- had what they
4 call leather restraints on their ankles.

5 If they were transported -- let's see
6 what's the policy -- if they were transported by
7 rescue on a gurney, their one arm was restrained or
8 one leg was restrained to the gurney. If they were
9 transported by our vehicles to the hospital, the
10 restraints remained the same because they would be
11 sitting in the vehicle and the only other restraint
12 that would have been placed on them would have been
13 the seat belt.

14 Q Do you remember the specific name of the
15 policy in question or the number of it or whatever it
16 is?

17 A No, but I can get it for you.

18 Q That's okay. I'm just asking if you know
19 offhand.

20 A My policy book is (indicating) --

21 Q I'm sure. Now --

22 MR. FRANCUZENKO: Just for the record, I

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1 is, I believe, after the birth of Ms. Fain's baby, if
2 that's what you're getting at.

3 Q So the copy of 3110 that I've shown you --

4 A This one (indicating)?

5 Q Yes.

6 A That wasn't in effect.

7 Q -- that wasn't in effect? That had been
8 superseded?

9 A Right.

10 Q And then the one I've just shown you,
11 3114, is a new policy that came in afterwards?

12 A October of '10. This has since changed,
13 too.

14 Q And let's try one more just to be -- we've
15 got 31- --

16 A You should have one that's '09.

17 Q 3115, see if that one was in effect.

18 A This one went into effect January 20th of
19 '11. That's when that revision went into effect.

20 Q So none of the ones I've shown you were in
21 effect at the time?

22 A Are you talking about in effect at the

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1 Q It says, The inmate is to be transported
2 with wrist or ankle restraints. If a jail vehicle
3 transports the inmate, full restraints are applied
4 when physically permissible; am I correct?

5 A Uh-huh.

6 Q Restraints may be temporarily removed at
7 the request of emergency room medical staff for the
8 purposes, tests, X-rays, or other hospital protocol.
9 Restraints are to be reapplied immediately following
10 any procedure. Inmates are not permitted to use --
11 to make telephone calls or visitors, correct?

12 A Correct.

13 Q That was the policy in effect in of April
14 of 2010?

15 A (Nonverbal response.)

16 Q Now, it says, May be temporarily removed.
17 Who would make the decision to remove or
18 not remove according to the policy?

19 A Medical staff.

20 Q Medical staff?

21 So the officer would not have the ability
22 to tell the medical staff, I'm not going to do that,

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1 minimum shall be shackled wrist or ankle to the bed
2 rail using leather restraints.

3 A Correct.

4 Q That was the policy; is that correct?

5 If you would, there's a policy -- under
6 assignment to private room, third paragraph, would
7 you read that, please?

8 A You're talking about leather restraints?

9 Q Yes.

10 A -- are to be applied at a minimum to the
11 wrist and ankle and to the bed rail. Restraints are
12 not to be removed unless requested by medical staff
13 for the purpose of any medical procedure or to permit
14 the inmate to use the restroom. Under both
15 circumstances, the inmate is to be closely supervised
16 by the jail officer and restraints applied
17 immediately thereafter.

18 Q And that was the policy in place at the
19 time?

20 A That was the policy.

21 Q And then under restraint equipment, does
22 it say what kind of restraints are supposed to be in

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1 dangerous may be different than mine, but the fact --
2 no.

3 Q There weren't -- let me go back.
4 Did she have a history of violent crimes?

5 A She had a history of criminal activity on
6 the outside, yes.

7 Q But not -- but were the crimes violent?
8 A Are you asking me -- what?

9 Q I guess what I'm trying to figure out is
10 where she ought to be pigeon-holed.

11 Was she in any way an unusual risk in
12 terms of the danger to people or the flight risk or
13 any of that? I'm sure all prisoners are, to some
14 degree, flight risks and all prisoners, to some
15 degrees, pose some level of dangerousness, but --

16 A Well, you just answered my question.

17 Q Beyond that, did she have any history of
18 violence that you know of?

19 A I know of none.

20 Q And you don't know of any escape attempts
21 that she made or anything of that nature?

22 A No.

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1 Q And what was his title again?

2 A He's lieutenant colonel deputy
3 superintendent.

4 Q Did any of the officers report a specific
5 recollection of unshackling Ms. Fain before delivery,
6 to your knowledge?

7 A Repeat --

8 Q Did any of the officers report that they
9 had a specific recollection of un- -- of taking
10 restraints off of Ms. Fain prior to her delivery?

11 A I couldn't answer that, sir. I don't
12 know.

13 Q Did Phil Grimes, in reporting to you --
14 Lieutenant Colonel Grimes, did he report to you that
15 officer so and so, being anybody, said that officer
16 knew for sure she was not restrained during delivery?

17 A No. The only thing that I recall from the
18 conversation with the lieutenant colonel was that
19 Ms. Fain was not secured to anything during delivery,
20 and the doctor's statements verified that.

21 Q And when did you have this conversation
22 with Lieutenant Colonel Grimes?

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1 A I'm not sure. When he was still in the
2 process of finishing the paperwork up on his
3 investigation, I wanted to know if she had been
4 restrained, as the complaint was made to us, and he
5 told me she had not.

6 Q Other than the doctor, did he say anybody
7 else confirmed that?

8 A No. I didn't go into detail. That was
9 his investigation. He assured me that there was no
10 restraints, and that was my immediate concern.

11 Q And did he assure you that there were no
12 restraints over what period of time?

13 A While she was in delivery.

14 Q Just while she was in delivery?

15 A Yes.

16 Q Did he say how long a period of time that
17 was?

18 A He did not.

19 (Discussion off the record.)

20 BY MR. SHIELDS:

21 Q Then for 3114, this one is correct; is
22 that right?

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1 A No. He didn't tell me that, no.

2 Q Would that have been an important factor,
3 given this lawsuit?

4 A Well, at the point in time we were doing
5 this investigation, there was no lawsuit.

6 Q Did he tell you what triggered the removal
7 of the restraints?

8 A Medical staff would either ask the
9 officers to take the restraints off or the officer
10 themselves may have taken the restraints off.

11 Q But he didn't tell you one way or the
12 other?

13 A If he did, I don't recall. He's very
14 thorough in his investigation, and he knows the
15 details I'm looking for.

16 Q So his report was not made in response to
17 the litigation; is that correct?

18 A His report was made at my request in
19 response to a complaint we received of her being
20 shackled, I believe was the term used, during
21 delivery.

22 MR. SHIELDS: I would ask for production

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1 seen this. Sir, I don't recall seeing this before.
2 I may have, flipping through paperwork. I mean, it's
3 not our jail procedure to restrain pregnant female
4 while giving birth.

5 Q One of the -- the reason, obviously, that
6 I'm asking is the response says, Even though you are
7 pregnant, you are still considered an inmate, and we
8 have to take precautions.

9 A Yes.

10 Q I would have thought if she was not
11 restrained, that the answer would have contained that
12 information as well, that, Well, you weren't
13 restrained at the time.

14 A Well, you would like to see it contain
15 that, yes, but Corporal Coleman wrote that in
16 response to that. It was a quick response to her. I
17 would have given a little more response detail, yes,
18 but nonetheless, he responded in the way he did.

19 MR. SHIELDS: Let me go ahead and mark
20 that as, I guess, Higgs Exhibit 4.

21 (Higgs Exhibit 4 was marked for
22 identification and attached to the deposition

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1 Defendant Higgs does not have firsthand
2 knowledge with regard to each and every restraint.
3 Incident reports from the officers have been produced
4 to you.

5 Q Now, you had a recollection about
6 transport.

7 Would it be the same here, the handcuffs
8 and the leather restraints?

9 A That's normal -- normal procedure.

10 Q So far as you know, that's what was used
11 at the hospital except for the period --

12 A Normal procedure, I would say, was what
13 was used at the hospital.

14 Q And then No. 14?

15 A Please identify the form or forms of
16 restraints used on the plaintiff during active labor
17 and delivery.

18 Same response. Defendant Higgs does not
19 have firsthand information.

20 Q All right. And other than what you've
21 just told me, you still don't know; is that correct?
22 Other than what Lieutenant Colonel Grimes reported

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1 about what the doctor said, that's the only knowledge
2 you have?

3 A Right.

4 Q None of the guards have specifically said,
5 I took them off?

6 A I did not talk to any of the correctional
7 officers.

8 Q But nobody has reported any of the guards
9 saying, I took them off?

10 A Not to me.

11 Q Now, if you would look at No. 16, please.

12 A State each and every penological interest
13 upon which the defendant relies and the facts
14 supporting -- I guess that's facts -- supporting the
15 application of that of these penological interest in
16 this case.

17 Defendant maintains the inmates must be
18 reasonably restrained while outside the Rappahannock
19 Regional Jail.

20 Q Is there any other penological interest
21 that I should know about, or is that it?

22 A I'm not sure I understand.

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1 Q Yes.

2 A No.

3 Q I'll show you your answer to this suit and
4 ask you to look at paragraph number 3 and read that
5 in, if you would.

6 A Defendant admits that he is responsible
7 for establishing the policies of the Rappahannock
8 Regional Jail "RRJ." Defendant does not directly
9 train nor does he directly supervise the defendants
10 or the jail employees. Defendant denies that he had
11 the -- "the sole discretion" to dictate the manner in
12 which defendants or other guards would implement the
13 customs and practices of RRJ concerning the care and
14 treatment of pregnant inmates, including plaintiff.

15 Q Am I correct that you had the ability to
16 set the outline of the policy?

17 A Yes, I set the outline of the policy.

18 Q And then they have some leeway in how they
19 interpret it; is that correct?

20 A I allow my officers a lot of discretion,
21 yes.

22 Q All right. And if you --

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1 A Commonsense discretion, let me clarify
2
3 that.

4 Q If you would look at Number 40, please.

5 A Forty?

6 MR. FRANCUZENKO: Paragraph 40?

7 MR. SHIELDS: Yes.

8 BY MR. SHIELDS:

9 Q While you're looking for that, I take it
10 within that discretion, then if they exercise their
11 discretion to do something that is in variance with
12 the policy but it's a commonsense deviation, that
13 would still fall within the proper performance of
14 their duties?

15 A If you're asking me that if they go beyond
16 the policy and not obey the policy using their
17 discretion, they have to have justification for doing
18 that. If their justification satisfies in my mind as
19 to what they did that allowed them to go beyond the
20 policy, then there would be no disciplinary type of
21 action taken. If the justification, their statement
22 of commonsense and I didn't agree with it and they
 knew -- I knew they knew better, then there would be

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1 some.

2 Number 40: The defendant admits that he
3 was quoted in the article dated January the 14th,
4 which -- 2009, which was published well before the
5 alleged incident. Defendant denies the
6 characterizations, interpretations provided by
7 plaintiff's counsel.

8 Q I'll show you a copy of that article and
9 ask if you have seen that before.

10 A Yeah, I've seen this.

11 Q Are you correctly quoted in there?

12 A Where am I quoted?

13 Q Take your time and read the whole thing if
14 you'd like.

15 A If that's the quote you're looking for,
16 yes, I said that.

17 Q Would you read the one you're talking
18 about?

19 A The superintendent of the regional jail of
20 Stafford County said that restraints are needed to
21 prevent violent behavior. I -- this is in reference
22 to the doctor -- I respect his office policy, said

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1 Joseph Higgs, but I'm not going to compromise the
2 safety of that doctor, his nurse, or my officer by
3 removing restraints on an inmate that may well have
4 created a problem.

5 Q So it is your position that under certain
6 circumstances, it would be permissible to have a
7 pregnant inmate restrained, or not?

8 A If the pregnant inmate was acting in a
9 manner of -- behavior was of such that they were
10 creating a safety or security factor -- risk, yes.

11 Q Do you remember the situation with
12 Dr. Burke?

13 A Is he a dentist?

14 Q It says obstetrician/gynecologist.

15 A I don't know who Dr. Burke is.

16 Q Do you remember in what context these
17 statements were made?

18 A I received a phone call from the newspaper
19 stating that this doctor had made that statement.

20 Q That one of your guards had refused to
21 remove the --

22 A Yeah. What the story -- what the

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1 One, while being transported, pregnant females will
2 only be restrained from the front using metal
3 restraints only; two, if admitted to the hospital,
4 the inmate will be restrained to the hospital bed
5 using leather restraints to the left or right arm for
6 safety and security; three, prior to giving birth,
7 restraints will be removed. Four, after birth and
8 all medical procedures are completed, the leather
9 restraints will again be applied to the left or right
10 arm; five, prior to release from the hospital, full
11 leather restraints will be applied.

12 BY MR. SHIELDS:

13 Q That's the new policy; is that correct?

14 A No. There's one after this one.

15 Q Well, let's talk about that one.

16 Did you participate in the changing of
17 that Paragraph 9?

18 A Yes, I did.

19 Q And how was it changed from the earlier
20 policy?

21 A Because if you look at the earlier policy,
22 it didn't spell it out as clearly as this one does.

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1 Q Is this actually a change in policy or
2 just clarifying the original policy?

3 A Anytime you take the old policy and put to
4 it or take from it or clarify, it becomes a new
5 policy.

6 Q Thank you very much.

7 MR. SHIELDS: Let's go ahead and mark that
8 as Higgs 6 [sic].

9 (Higgs Exhibit 5 was marked for
10 identification and attached to the deposition
11 transcript.)

12 (Discussion off the record.)

13 BY MR. SHIELD:

14 Q One thing I think I've already asked, but
15 I just want to make sure.

16 None of your officers ever told you or it
17 was reported to you from some other source that they
18 did or did not restrain this lady during delivery
19 except for the doctor; is that correct?

20 A That's correct.

21 Q The only source of that information is the
22 doctor?

RAPPAHANNOCK REGIONAL JAIL Stafford, Virginia	Policy Number 3.1.15	Page(s) 5
INSTITUTIONAL OPERATIONS Security and Control	Related Virginia Standards 5.28	Related ACA Standards 3-ALDF-3A-16, -17
Escorted Trips		

POLICY

The Rappahannock Regional Jail provides certified Jail Officers to escort and supervise inmates when they are transported outside the Rappahannock Regional Jail and/or from one jurisdiction to another.

DISCUSSION

Transportation of inmates outside the confines of the Rappahannock Regional Jail provides a most likely opportunity for inmate escape. Consequently, Jail personnel involved in conducting or supervising transportation must be especially alert to possible dangers. In planning transportation activities:

- Careful consideration should be given to selecting a route, which presents the least possibility of difficulty.
- Neither the inmate, his/her family, nor the public should be aware of the time of departure or the proposed route prior to a trip.
- Routes and times of departure should be changed periodically so that inmates cannot detect a pattern.
- Inmates are not permitted to make telephone calls prior to transportation.

PROCEDURES

In order to reduce the likelihood of escapes or other serious problems during transportation, it is important that proper planning, training, and orientation be conducted prior to the trip.

- Each trip is handled by a minimum of one (1) Jail Officer.
- Handguns are carried on the opposite side of the body from inmates at all times.
- Consumption of alcoholic beverages by Jail Officers or inmates is strictly prohibited.
- Prior to all transportation, the Movement Officer is made aware of the custody classification of inmates involved and other pertinent data, including past escapes.
- To the greatest extent possible, transportation is conducted during daylight hours.
- Prior to departure, all inmates are given, at a minimum, a pat "frisk" search (see Policy 3.1.19, Inmate, Employee, and Visitor Searches.)
- Inmates being permanently reassigned to another institution or facility are transported with all personal property, unless otherwise specified. Prior to transport, such property must be inventoried and thoroughly searched.
- Inmates are not permitted to possess or spend any funds while in transit.
- Inmates are not permitted to trade or give anything to the Movement Officer(s) or to anyone else.
- Inmates are not permitted to select eating places, routes of travel, rest stops, or in any manner influence the itinerary of the return trip.
- Movement Officers are not to discuss personalities, itinerary, inmate movements, or other official business in the presence of inmates, nor are they to offer legal advice or suggest legal actions to inmates.
- Inmates are not permitted to converse with anyone except the escorting Officer(s) while in transit.
- Inmates are not permitted to make telephone calls or mail letters while in transit, nor are the escort(s) to perform these services for them.
- Except under unusual circumstances, rest stops in transit are limited to one every three hours at previously scheduled locations along the route. These scheduled locations are institutions or jail facilities en route.
- Handcuff and leg iron keys are not carried on the same ring as the motor vehicle ignition or other general use key rings.
- Gasoline credit cards are provided to Movement Officers.
- Escorting an inmate by vehicle should normally be terminated after eight (8) hours of driving time per Movement Officer making the trip. This should equal approximately 400 miles per day. Only when extenuating circumstances exist is this limit to be extended to a maximum of ten hours' travel time.
- Movement Officers returning from an interstate retake of an escapee, after more than 36 hours of continuous duty, are granted appropriate rest time on the day following their return.

- Prior to each trip, Movement Officers check their radio equipment and maintain radio contact during the trip with the host institution, receiving institution, or other institutions along the route.
- Officers of either sex may conduct transportation.
- Movement staff are issued cellular phones to contact the facility on long transports (see Policy No. 1.4.2, Telecommunications).

See Policy No. 1.3.7, Standards of Conduct.

Funeral Trips

When there is a death in an inmate's family, the Programs Coordinator is to be notified. The staff member completes the Death Notification/Escorted Trip Request Form (see attached form) and verifies the reported information with the funeral home. This form is forwarded to the inmate's Correctional Counselor for record review, verification of the inmate's relationship to the deceased, and custody status of the inmate. The Correctional Counselor recommends approval or disapproval of the trip and forwards the form to the Director of Security & Confinement for final approval or disapproval. If approved, the Director of Security & Confinement directs the Movement Section to conduct the trip in accordance with standard operating procedures. If disapproved, the Director of Security & Confinement informs the Director of Community Corrections & Programs, who is responsible for notifying the inmate of the disapproval and the reasons for disapproval. Approval or disapproval of a funeral trip is based upon the safety and security of the community, staff, and inmate.

If approved, the inmate is allowed to go to the funeral home prior to the family's viewing to pay respects. The time is to be coordinated between the funeral home and the Movement Supervisor.

Hospital Trips - Emergency Room Treatment

When the need arises to transport an inmate to a non-secure hospital, an armed certified Jail Officer directly supervises the inmate.

If the inmate is transported by rescue squad, the inmate is to be secured to the gurney by the wrist(s) or ankle(s), using restraints whenever possible. If a Jail vehicle transports the inmate, full restraints are applied when physically permissible. Restraints may be temporarily removed at the request of the emergency room medical staff for the purposes of tests, x-ray, or any other hospital protocol. Restraints are to be reapplied immediately following any procedure. The inmate is not permitted telephone calls or visitors.

The Superintendent must approve requests from the attending physician for permanent removal of restraints. In the event the inmate in question has a violent history or background or has been combative, at a minimum, the inmate is to be shackled at the wrist or ankle to the bedrail using leather restraints.

Assignment to Private Rooms

Any inmate assigned to a room in a non-secure hospital is under the direct supervision of an armed certified Jail Officer. Inmates are not allowed telephone calls or visitors (unless approved by the Watch Commander or his/her designee). The telephone is to be used by the Officer strictly to communicate with supervisors.

Jail Officers are prohibited from bringing personal laptops, cell phones or pagers into the hospital room while they are assigned a security detail for a hospitalized inmate. Staff is authorized to bring with them the following items: books, training manuals or magazines to read.

Leather restraints are to be applied, at a minimum, to the wrist and ankle and to the bed rail. Restraints are not to be removed unless requested by medical staff for the purpose of any medical procedure or to permit the inmate to use the restroom. Under both circumstances, the inmate is to be closely supervised by the Jail Officer and restraints applied immediately thereafter.

Inmates are to be directly supervised at all times during hospital stays. Certified Jail Officers are not to be relieved by hospital security officers; only other certified Jail Officers can relieve them. Relief must be provided at least every Six (6) hours for each officer assigned to hospital duty. There will be no exceptions to this directive. Relief is to be defined as relief of duty by a certified Jail Officer for at least twenty minutes, or for the duration of the 12-hour shift, which would be six (6) hours.

Any family member inquiring about a hospitalized inmate is to be referred to the jail's Medical Department.

Restraint Equipment

Inmates are restrained in the following manner:

- Minimum custody inmates are restrained, at a minimum, in handcuffs, waist chain, and leg irons unless otherwise specified by the Director of Security & Confinement. These inmates are also maintained under direct supervision at all times.
- Medium and maximum custody inmates are restrained, at a minimum, in handcuffs, waist chains, and leg irons. Additional restraints may be applied if needed.
- Physical restraints are not removed from any inmate while outside the confines of the Rappahannock Regional Jail unless there is an armed certified Jail Officer present.
- Inmates are not secured to the vehicle except by use of a seat belt.
- Restraining equipment must never be used as punishment or in a way that causes undue physical pain or restricts the blood circulation or breathing of an inmate.

Movement Vehicles

Movement vehicles used by the Rappahannock Regional Jail will be equipped with a special security screening between the inmates and driver. Officers occupy front seat(s), with the inmate(s) riding in the rear.

- All movement vehicles are to be examined frequently for hairpins, coat hangers, soft drink bottles, chewing gum, paper, matches, and other seemingly insignificant items that could be used in shimming, jamming, or picking handcuffs, or used as a weapon.
- All transportation vehicles are to be equipped with a working two-way radio (See Policy No. 1.4.3, Intercom and Radio Use.)
- Transportation vehicles are never to be operated at speeds in excess of the posted speed limit unless in an emergency situation (See Policy No. 1.3.11, Use of Facility and Personal Vehicles.)
- Shotguns are carried only under the direction of the Superintendent or Director of Security & Confinement.
- If a vehicle is mechanically disabled during transport, the driver will attempt to move the vehicle out of traffic lanes and into a safe area. Arrangements must be made to accommodate the inmate(s) and to provide for their security while they are being transported within the community. The Maintenance Department arranges for repairs.

Loading

When transporting inmates in a Jail vehicle, the seat closest to the security screen is to be left vacant. All inmates sit in the second, third, or fourth seat. The only exceptions are:

- If more than ten inmates of the same sex are being transported;
- If both male and female inmates are being transported, males and females must be segregated in the vehicle by an entire bench seat when possible.

Meals on the Road

- The inmate eats in the vehicle.
- Restraining devices are to remain in place.
- Food not requiring eating utensils and cold (without ice) drinks are appropriate for the inmate.

Emergency Procedures

Accidents: If a transport vehicle is involved in an accident, the Movement Officer(s) should:

- Contact State Police on S.I.R.S. or at 1/800/572-2260.
- Contact Rappahannock Regional Jail on radio or at 1/540/288-5245.
- Document time of accident, location of accident, persons involved, how accident occurred and the time when State Police, rescue squad, and facility were notified.
- Notify local rescue squad if anyone is injured due to accident and insure medical attention is rendered to those in need.
- In the event two or more inmates must be transported to the hospital, the transporting Officer remains with the uninjured inmate(s). Assistance from state and local authorities is requested to insure the safe and secure

transportation of those inmates injured to the hospital. The Rappahannock Regional Jail should also be notified so that an Officer(s) can be dispatched to the scene of the accident and/or hospital.

- If a Movement Officer(s) observes an accident or comes upon an accident, he/she should notify the State Police on S.I.R.S. or at 1/800/572-2260.

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Escapes

In the event that an escape occurs, the Officer in charge of the trip immediately notifies the Rappahannock Regional Jail by radio or telephone of the name of the escapee, sex, race, age, clothing description, personal description (hair color, length, eyes, scars, etc.), direction of travel, whether armed (if so, type of weapon), and time of escape. This Officer is also responsible for documenting all of the above. See Policy No. 3.2.4, Escape Plan.

Cross Reference

Policy No. 1.3.7, Standards of Conduct

Policy No. 1.3.11, Use of Facility and Personal Vehicles

Policy No. 1.4.2, Telecommunications

Policy No. 1.4.3, Intercom and Radio Use

Policy No. 3.1.10, Use of Restraints

Policy No. 3.1.19, Inmate, Employee, and Visitor Searches

Policy No. 3.1.20, Reporting Institutional Incidents

Policy No. 3.2.4, Escape Plan

DEATH NOTIFICATION/ESCORTED TRIP REQUEST

NAME OF INMATE: _____ BLOCK: _____

NOTIFIED BY: _____ DATE: _____

NAME OF DECEASED: _____ DATE OF DEATH: _____

RELATIONSHIP TO INMATE: _____

FUNERAL HOME: _____ CONTACT: _____

ADDRESS: _____ TEL: _____

INFORMATION VERIFIED BY: _____

DATE AND TIME OF VIEWING: _____

ADDRESS: _____

TEL: _____ DIRECTIONS: _____

OFFENSE: _____ STATUS: _____

SENTENCE: _____ ESCAPE HISTORY: _____

DETAINERS/PENDING CHARGES: _____

CLASSIFICATION OFFICER'S RECOMMENDATION

APPROVAL

Signature

DISAPPROVAL

DIRECTOR OF SECURITY & CONFINEMENT

APPROVAL

Signature

DISAPPROVAL

cc: Records Department
Movement Section
Programs Coordinator
Director of Community Corrections & Programs

RAPPAHANNOCK REGIONAL JAIL
Inmate Request Form

Inmate's Name: Tiassa Fain
Alias, If used: Ala

Housing Unit: C 1-2 Date: 6/8/10
ID #: 2000746038 SSN: -

What is your request? I5 it "jail procedure" to restrain pregnant women to the bed during labor and delivery? I ask because it seems a little unethical and it was done to me during my child birth on 4/18/10. I am not violent, and have never given officers any reason to feel like I was dangerous. I'm very respectful. But during labor, a woman is unable to walk. Faith Robinson stated that she wasn't restrained. So why was I?

DO NOT WRITE BELOW THIS LINE

Security () Programs () Community Corrections () Support Services () Other

Received by Officer: Oliver

Action Taken: Even though you are pregnant you are still considered an inmate and we have to take precautions.

Completed By: Al Col

Date: 6/9/10 Time: 1040

Date Received by Case Manager: _____

Date Returned to Inmate: _____

White - Inmate File
Yellow - Inmate
Pink - Inmate Response Copy

EXHIBIT
4
Higgs
SP

PROG-M24
Revision 6/04

Shackles not what doctor ordered

A Fredericksburg doctor this week refused to treat a handcuffed inmate

Date published: 1/14/2009

BY JIM HALL

When Dr. Declan Burke, a Fredericksburg obstetrician/gynecologist, walked into his exam room Monday, he discovered that his patient, a female jail inmate, was in handcuffs.

"Please take off the manacles," he said to the correctional officer who was with the inmate.

"No, I can't," the guard replied.

Burke insisted, so the officer called her supervisor at the Rappahannock Regional Jail. The supervisor agreed with the officer. The handcuffs would remain in place during the exam.

Burke said he wanted the handcuffs removed to examine the patient completely. It was the first time in 20 years that he has refused to treat a jail inmate.

The superintendent of the regional jail in Stafford County said that restraints are needed to prevent violent behavior.

"I respect his office policy," said Joseph Higgs, "but I am not going to compromise the safety of that doctor, his nurse or my officer by removing restraints on an inmate that may well have created a problem."

Health workers must sometimes restrain unruly patients. But what about the patient who arrives for treatment in shackles? Can a doctor insist that they be removed?

Several hospitals, state legislatures and departments of corrections nationwide have debated the shackling of pregnant inmates during labor and delivery.

At Mary Washington Hospital's emergency department, prisoners from the Rappahannock Regional Jail are not shackled while being treated.

"The handcuffs are removed, and a prison guard sits one-on-one with the patient," said Kathleen Allenbaugh, hospital spokeswoman.

When state inmates are taken for medical care, the decision whether to shackle during treatment is made on a case-by-case basis, said Larry Traylor, spokesman for the Virginia Department of Corrections.

"Several factors come into play," Traylor said in an e-mail. "The most significant being the offender's history of behavior. When possible we will consider removal of either the handcuffs or the leg irons depending on the area that requires treatment."

Burke described his patient as a "small, frail-looking woman" in her 30s. He said he did not know her criminal history. She was there because of complications of a hysterectomy.

Burke said the guard removed the prisoner's leg shackles for the pelvic exam. He also said he wanted the handcuffs removed to do a breast exam.

With the handcuffs in place, "I could have done a limited exam. I couldn't have done the adequate exam I wanted to do," he said.

EXHIBIT

Higgs 5
2/12/13 SB

Burke said he did not fear for his safety. His nurse and the guard were in the room.

The guard and inmate eventually left Burke's Central Park office without the inmate being treated.

Higgs said the jail's policy is consistent for all prisoners, male or female, sentenced or accused.

"Normally, when we take them out into the community, even to funerals, they remain cuffed," Higgs said.

Burke's patient had been convicted in Stafford County and had a history of violence, Higgs said.

"The doctor has no knowledge of the history of this inmate at this facility. We do," he said.

The inmate will see another doctor and will be handcuffed during the exam, he said.

Jim

Hall:

540/374-5433

Email: jhall@freelancestar.com

Higgs 6
2/15/13 SB

RAPPAHANNOCK REGIONAL JAIL Stafford, Virginia	Policy Number 3.1.15	Page(s) 5
INSTITUTIONAL OPERATIONS Security and Control	Related Virginia Standards 5.28	Related ACA Standards 3-ALDF-3A-16, -17
Escorted Trips		

I. PURPOSE

The Rappahannock Regional Jail provides certified Jail Officers to escort and supervise inmates when they are transported outside the Rappahannock Regional Jail and/or from one jurisdiction to another.

II. SCOPE

This policy applies to all Rappahannock Regional Jail employees.

III. DEFINITIONS

A. Escort:

To accompany as an escort.

IV. PROCEDURES

A. DISCUSSION

- 1) Transportation of inmates outside the confines of the Rappahannock Regional Jail provides a most likely opportunity for inmate escape. Consequently, Jail personnel involved in conducting or supervising transportation must be especially alert to possible dangers. In planning transportation activities:
 - a. Careful consideration should be given to selecting a route, which presents the least possibility of difficulty.
 - b. Neither the inmate, his/her family, nor the public should be aware of the time of departure or the proposed route prior to a trip.
 - c. Routes and times of departure should be changed periodically so that inmates cannot detect a pattern.
 - d. Inmates are not permitted to make telephone calls prior to transportation.
- 2) In order to reduce the likelihood of escapes or other serious problems during transportation, it is important that proper planning, training, and orientation be conducted prior to the trip.
 - a. Each trip is handled by a minimum of one (1) Jail Officer.
 - b. Handguns are carried on the opposite side of the body from inmates at all times.
 - c. Consumption of alcoholic beverages by Jail Officers or inmates is strictly prohibited.
 - d. Prior to all transportation, the Movement Officer is made aware of the custody classification of inmates involved and other pertinent data, including past escapes.
 - e. To the greatest extent possible, transportation is conducted during daylight hours.
 - f. Prior to departure, all inmates are given, at a minimum, a pat "frisk" search (see Policy 3.1.19, Inmate, Employee, and Visitor Searches.)
 - g. Inmates being permanently reassigned to another institution or facility are transported with all personal property, unless otherwise specified. Prior to transport, such property must be inventoried and thoroughly searched.
 - h. Inmates are not permitted to possess or spend any funds while in transit.

of tests, X-ray, or any other hospital protocol. Restraints are to be reapplied immediately following any procedure. The inmate is not permitted telephone calls or visitors. The Superintendent must approve requests from the attending physician for permanent removal of restraints. In the event the inmate in question has a violent history or background or has been combative, at a minimum, the inmate is to be shackled at the wrist or ankle to the bedrail using leather restraints.

D. Use of restraints on a pregnant female.

- 1) While being transported pregnant females will only be restrained from the front using metal restraints only.
- 2) If admitted to a hospital the inmate will be restrained to the hospital bed using leather restraints to the left or right arm for safety and security.
- 3) Prior to giving birth, restraints will be removed.
- 4) After birth and all medical procedures are completed the leather restraints will again be applied to the left or right arm.
- 5) Prior to release from the hospital full leather restraints will be applied.

E. Assignment to Private Rooms

- 1) Any inmate assigned to a room in a non-secure hospital is under the direct supervision of an armed certified Jail Officer. Inmates are not allowed telephone calls or visitors (unless approved by the Watch Commander or his/her designee). The telephone is to be used by the Officer strictly to communicate with supervisors.
- 2) Jail Officers are prohibited from bringing personal laptops, cell phones or pagers into the hospital room while they are assigned a security detail for a hospitalized inmate. Staff is authorized to bring with them the following items: books, training manuals or magazines to read.
- 3) Leather restraints are to be applied, at a minimum, to the wrist and ankle and to the bed rail. Restraints are not to be removed unless requested by medical staff for the purpose of any medical procedure or to permit the inmate to use the restroom. Under both circumstances, the inmate is to be closely supervised by the Jail Officer and restraints applied immediately thereafter.
- 4) Inmates are to be directly supervised at all times during hospital stays. Certified Jail Officers are not to be relieved by hospital security officers; only other certified Jail Officers can relieve them. Relief must be provided at least every
- 5) Six (6) hours for each officer assigned to hospital duty. There will be no exceptions to this directive. Relief is to be defined as relief of duty by a certified Jail Officer for at least twenty minutes, or for the duration of the 12-hour shift, which would be six (6) hours.
- 6) The Watch Commander is to notify hospital personnel not to release any information indicating that an inmate is a patient at the hospital.
- 7) Any family member inquiring about a hospitalized inmate is to be referred to the jail's Medical Department.

Restraint Equipment

Inmates are restrained in the following manner:

- 1) Minimum custody inmates are restrained, at a minimum, in handcuffs, waist chain, and leg irons unless otherwise specified by the Director of Security & Confinement. These inmates are also maintained under direct supervision at all times.
- 2) Medium and maximum custody inmates are restrained, at a minimum, in handcuffs, waist chains, and leg irons. Additional restraints may be applied if needed.
- 3) Physical restraints are not removed from any inmate while outside the confines of the Rappahannock Regional Jail unless there is an armed certified Jail Officer present.
- 4) Inmates are not secured to the vehicle except by use of a seat belt.
- 5) Restraining equipment must never be used as punishment or in a way that causes undue physical pain or restricts the blood circulation or breathing of an inmate.

G. Movement Vehicles

Movement vehicles used by the Rappahannock Regional Jail will be equipped with a special security screening between the inmates and driver. Officers occupy front seat(s), with the inmate(s) riding in the rear.

- 1) All movement vehicles are to be examined frequently for hairpins, coat hangers, soft drink bottles, chewing gum, paper, matches, and other seemingly insignificant items that could be used in shimming, jamming, or picking handcuffs, or used as a weapon.
- 2) All transportation vehicles are to be equipped with a working two-way radio (See Policy No. 1.4.3, Intercom and Radio Use.)
- 3) Transportation vehicles are never to be operated at speeds in excess of the posted speed limit unless in an emergency situation (See Policy No. 1.3.31, Use of Facility and Personal Vehicles.)
- 4) Shotguns are carried only under the direction of the Superintendent or Director of Security & Confinement.
- 5) If a vehicle is mechanically disabled during transport, the driver will attempt to move the vehicle out of traffic lanes and into a safe area. Arrangements must be made to accommodate the inmate(s) and to provide for their security while they are being transported within the community. The Maintenance Department arranges for repairs.

H. Loading

When transporting inmates in a Jail vehicle, the seat closest to the security screen is to be left vacant. All inmates sit in the second, third, or fourth seat. The only exceptions are:

- 1) If more than ten inmates of the same sex are being transported;
- 2) If both male and female inmates are being transported, males and females must be segregated in the vehicle by an entire bench seat when possible.

I. Meals on the Road

- 1) The inmate eats in the vehicle.
- 2) Restraining devices are to remain in place.
- 3) Food not requiring eating utensils and cold (without ice) drinks are appropriate for the inmate.

J. Emergency Procedures

Accidents: If a transport vehicle is involved in an accident, the Movement Officer(s) should:

- 1) Contact State Police on S.I.R.S. or at 1/800/572-2260.
- 3) Contact Rappahannock Regional Jail on radio or at 1/540/288-5245.
- 4) Document time of accident, location of accident, persons involved, how accident occurred and the time when State Police, rescue squad, and facility were notified.
- 5) Notify local rescue squad if anyone is injured due to accident and insure medical attention is rendered to those in need.
- 6) In the event two or more inmates must be transported to the hospital, the transporting Officer remains with the uninjured inmate(s). Assistance from state and local authorities is requested to insure the safe and secure transportation of those inmates injured to the hospital. The Rappahannock Regional Jail should also be notified so that an Officer(s) can be dispatched to the scene of the accident and/or hospital.
- 7) If a Movement Officer(s) observes an accident or comes upon an accident, he/she should notify the State Police on S.I.R.S. or at 1/800/572-2260.

K. Escapes

In the event that an escape occurs, the Officer in charge of the trip immediately notifies the Rappahannock Regional Jail by radio or telephone of the name of the escapee, sex, race, age, clothing description, personal description (hair color, length, eyes, scars, etc.), direction of travel, whether armed (if so, type of weapon), and time of escape. This Officer is also responsible for documenting all of the above. See Policy No. 3.2.4, Escape Plan.

V. Cross Reference

Policy No. 1.3.22, Standards of Conduct

Policy No. 1.3.31, Use of Facility and Personal Vehicles
Policy No. 1.4.2, Telecommunications
Policy No. 1.4.3, Intercom and Radio Use
Policy No. 3.1.10, Use of Restraints
Policy No. 3.1.19, Inmate, Employee, and Visitor Searches
Policy No. 3.1.20, Reporting Institutional Incidents
Policy No. 3.2.4, Escape Plan

RAPPAHANNOCK REGIONAL JAIL

DEATH NOTIFICATION/ESCORTED TRIP REQUEST

NAME OF INMATE: _____ BLOCK: _____

NOTIFIED BY: _____ DATE: _____

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ADDRESS: _____ TEL: _____

INFORMATION VERIFIED BY: _____

DATE AND TIME OF VIEWING: _____

ADDRESS: _____

TEL: _____ DIRECTIONS: _____

OFFENSE: _____ STATUS: _____

SENTENCE: _____ ESCAPE HISTORY: _____

DETAINERS/PENDING CHARGES: _____

CLASSIFICATION OFFICER'S RECOMMENDATION

APPROVAL

Signature

DISAPPROVAL

DIRECTOR OF SECURITY & CONFINEMENT

APPROVAL

Signature

DISAPPROVAL

cc: Records Department
Movement Section
Programs Coordinator
Director of Community Corrections & Programs